

A. G. CONTRACT NO. 82-473

Projects: I-10-2(85); S-237-901 and  
RRP-237(5)  
Improvement of 99th Ave.  
Between Interstate Highway 10  
(Ehrenberg-Phoenix) and State  
Route 85 (Buckeye-Phoenix)

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT entered into this 26th day of November, 1982 between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, hereinafter called "State", and the COUNTY OF MARICOPA, a body corporate and politic, acting by and through its Board of Supervisors, hereinafter called "County"; and

WHEREAS, State is empowered by Sections 11-951 through 11-954 and by Sections 28-108 and 28-1866, Arizona Revised Statutes to enter into this agreement and the Director of the Arizona Department of Transportation has by Resolution attached hereto, delegated to the undersigned the authority to execute same on behalf of the State; and

WHEREAS, County is empowered by Section 11-251 Arizona Revised Statutes to enter into this agreement and acting by and through its duly elected governing body has, by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute same on behalf of County; and

WHEREAS, the opening to traffic of Interstate Highway 10 (EHRENBERG-PHOENIX HIGHWAY) to the 99th Avenue Interchange will result in a significant increase in traffic on 99th Avenue between I-10 and State Route 85 (BUCKEYE-PHOENIX HIGHWAY); and

WHEREAS, both parties feel that the joint improvement of 99th Avenue to a 60-foot-wide roadway with four through lanes, a continuous left-turn lane, and 8-foot-wide graded shoulders, will better accommodate the increased traffic volume; and

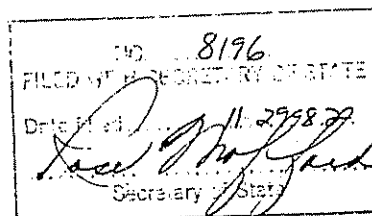
WHEREAS, the Federal Highway Administration (FHWA) has approved portions of the improvement project for Federal funding; and

WHEREAS, the improvements have been apportioned to three State projects: Project I-10-2(85) which extends South from the southerly Interstate Highway 10 right of way to Highway Engineer's Station (H.E.S.) 44 + 00.00 of said 99th Avenue; Project S-237-901 which extends southerly from H.E.S. 44 + 00.00 to H.E.S. 4 + 15.00 of said 99th Avenue; and Project RRP 237(5) which encompasses a railroad crossing and lies within the limits of aforesaid Project S-237-901.

THEREFORE, both parties hereby agree as follows:

I. PROJECT I-10-2(85)

This project number shall be assigned for all construction work beginning at the southerly right of way of Interstate Highway 10 and continuing southerly along 99th Avenue to the northerly limits of Project S-237-901 at or near H.E.S. 44 + 00.00 of said 99th Avenue. This is a Federal Aid Project for construction between the State and the F.H.W.A. and the State shall supply all matching funds necessary for this portion of the improvement of said 99th Avenue, except as hereinafter set forth.



COUNTY SHALL:

1. Design and draft right of way strip maps and appraise all property rights to be acquired.

2. Acquire, in the name of the County and at its own cost, all property and property rights necessary to complete the roadway improvements.

3. In accordance with the State and FHWA standards, design, develop and draft construction plans for the roadway improvement from the southerly portion of the right of way of Interstate 10 to the northerly right of way of State Route 85 at 99th Avenue, except for that portion included in Railroad Project (RRP-237(5) hereinafter described.

4. Submit to the State for review, all right of way strip maps and construction plans, appraisals, parcels acquired and procedures taken to insure that all are adequate with respect to FHWA standards.

5. Pay any and all costs for any widening of Van Buren Avenue and any construction costs for improvement thereof east of the east curb radius return and also for improvements west of the west curb radius return of said Van Buren Avenue as the same is intersected by 99th Avenue within the limits of this project.

STATE SHALL:

1. Solicit bids, award a contract for the roadway construction and improvement and administer the construction contract to completion.

2. Secure final approval and acceptance by FHWA for construction wherein Federal funds are involved.

3. Pay its proportionate share of matching funds for the construction work involved in this project, except for any funds for construction work mentioned in paragraph #5 above.

II. PROJECT: RRP-237(5)

This project is incorporated within this agreement only because it lies within the limits of Project S-237-901 referred to above. This project is already under a contract and agreement between the State and Southern Pacific Transportation Company, being Agreement No. 1044-82-RR and further designated as AG Contract No. 82-34. Such contract sets forth agreements with respect to the installation of warning devices and improvement of the railroad crossing at 99th Avenue where the same crosses the property and tracks of the railroad at or near Tolleson, in the County of Maricopa and designated as Crossing No. R-894.72. Most of the work to be performed under this existing contract is Federally funded. The said railroad shall perform all work and furnish all necessary labor, materials, tools and equipment. Also, in connection with this project, the State is acting solely as an agent for the County in securing and administering Federal funds for Project RRP-237(5). The State's liability thereunder is expressly limited to the securing of Federal funds and the State assumes no other liability thereunder for the County of Maricopa. Therefore, the existing agreement between the State and Southern Pacific Transportation referred to above is incorporated herein by reference and will be considered as an integral portion or part of the General improvement of 99th Avenue mentioned in this agreement.

III. PROJECT S-237-901

COUNTY SHALL:

1. Design and draft right of way strip maps and appraise all property rights to be acquired.

2. Acquire, in the name of the County and at its own cost, all property and property rights necessary to complete the roadway improvements.

3. In accordance with the State and FHWA standards, design, develop and draft construction plans for the roadway improvement from H.E.S. 44 + 00.00 of said 99th Avenue to H.E.S. 4 + 15.00 of said 99th Avenue, except for that portion included in Railroad Project (RRP-237(5) herein before described.

4. Submit to the State for review, all right of way strip maps and construction plans, appraisals, parcels acquired and procedures taken to insure that all are adequate with respect to State standards.

5. Pay all costs for construction of this project and all costs over and above the estimated amount of the construction, administrative and engineering costs hereinafter referred to.

STATE SHALL:

1. Solicit bids, award a contract for the roadway construction and improvement and administer the entire construction contract to completion. In this case, the State shall act as agent for the County for that portion to be paid for solely by the County as described above. The charges for the southerly half of the improvement of 99th Avenue shall be charged to Project S-237-901 for State accounting purposes and an itemization thereof shall be submitted to the County upon completion. In the event such charges and costs shall exceed the estimates hereinafter mentioned, such excess cost shall be billed to the County and shall be paid upon completion of the project.

2. Receive from the deposit to be made by the County as is hereinafter set forth, 15% of the total final cost to be funded by the County for administrative and engineering costs. The estimated construction cost to be funded by the County is the sum of \$682,373.00 and the State shall receive 15% thereof, or an estimated amount of \$102,356.00 as payment for such administrative and engineering costs. Payment to the State shall be made out of the deposit made by the County as hereinafter set forth. In the event of any cost overrun for such construction, the State shall receive 15% thereof for further administrative and engineering costs and shall bill the County for all such additional charges upon completion of the contract.

IV. THE PARTIES HERETO FURTHER AGREE AS FOLLOWS:

STATE SHALL:

1. Prepare an environmental analysis encompassing the projects and carry out the public hearing requirements for the projects in accordance with FHWA standards and the State Action Plan.

2. Subject to the provisions of Arizona Revised Statutes Section 28-1863 and prior to completion of the improvement projects, establish 99th Avenue as a temporary interstate connector route within the State Highways System and upon completion of construction, provide for, at its own cost, maintenance of said roadway.

3. Return any part of the sum deposited by the County remaining after the County's share of all costs have been paid.

4. Provide auditors of the County with access to State's records and books at all reasonable times and give such assistance and information as is necessary for the purpose of auditing or reviewing costs paid or to be paid pursuant to this agreement.

COUNTY SHALL:

1. Prior to call for bids, deposit with the State the sum of \$784,729.00, which sum shall be used by the State to pay all estimated construction costs for which the County shall be responsible, including the 15% charge by the State for administrative and engineering costs incurred in carrying out the terms of this agreement.

2. Grant and does hereby grant to the State an exclusive easement for use by its agents, contractors and the traveling public under the State's direction, for vehicles, maintenance and construction machinery, or other necessary uses, in connection with the construction of this project.

3. Upon execution hereof, does hereby acknowledge that the minimum of 20 days notice has been given prior to the State taking aforesaid portions of 99th Avenue into the State Highway System and that any other form of such notice required of the State shall be waived.

DURATION, TERMINATION AND ARBITRATION

THIS AGREEMENT, except the provisions herein for maintenance and use of such roadway as part of the State System, shall terminate upon completion of the work herein embraced in accordance with the terms of this agreement or may be terminated at any time prior to the awarding of the construction contracts, by either party upon 30 days written notice to that intent. All parties are hereby put on notice that this agreement is subject to cancellation by the Governor of Arizona, pursuant to Arizona Revised Statutes, Section 38-511. The obligations of the State under the terms of this agreement are subject to the allocation of funds and resources by the Legislature and Arizona Transportation Board.

In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Section 12-1518(B) and (C) of Arizona Revised Statutes as amended.

FILING WITH SECRETARY OF STATE

THIS AGREEMENT shall be filed with the Arizona Secretary of State and shall become effective upon filing.

IN WITNESS WHEREOF, the parties have executed this agreement.

COUNTY OF MARICOPA

NOV 15 1982

Date

By 

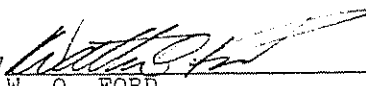
Title CHAIRMAN

ATTEST:

  
Clerk, Board of Supervisors

STATE OF ARIZONA  
ARIZONA DEPARTMENT OF  
TRANSPORTATION

11/26/82  
Date

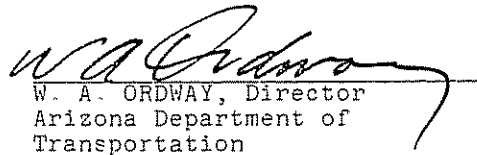
By   
W. O. FORD  
Chief Deputy State Engineer

Improvement of 99th Ave.  
Between Interstate Highway 10  
(Ehrenberg-Phoenix Highway and  
State Route 85 (Buckeye-Phoenix)

RESOLUTION

BE IT RESOLVED on this 2nd day of April, 1982, that I,  
W. A. Ordway, Director of the Arizona Department of Transportation,  
have determined that it is in the best interests of the State of  
Arizona that the Department of Transportation, acting by and through  
the Highways Division, enter into an Intergovernmental Agreement  
with Maricopa County for the joint improvement of 99th Avenue  
between the Interstate Highway 10 (EHRENBERG-PHOENIX HIGHWAY) right  
of way and State Route 85 (BUCKEYE-PHOENIX HIGHWAY).

THEREFORE, authorization is hereby given to draft said  
agreement which, upon completion, shall be submitted for approval  
and execution by the Chief Deputy State Engineer.

  
W. A. ORDWAY, Director  
Arizona Department of  
Transportation

HJR:ea

LEGAL REVIEW

I have reviewed the Intergovernmental Agreement

A.G. Contract No. 82-473

pursuant to A.R.S. §11-952.

Subject Agreement is in proper form and within the  
power authority of Maricopa County as granted by Arizona  
Revised Statutes.

DATED: 10-25-82

TOM COLLINS  
MARICOPA COUNTY ATTORNEY

By R. G. W. Murray  
Deputy County Attorney



OFFICE OF THE  
**Attorney General**  
TRANSPORTATION DIVISION  
1275 WEST WASHINGTON  
PHOENIX, ARIZONA 85007  
(602) 255-1880

ROBERT K. CORBIN  
ATTORNEY GENERAL

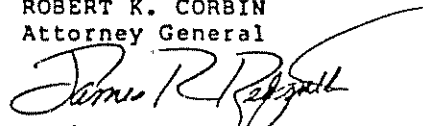
INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

A. G. Contract No. 82-113, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. Sec. 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 8<sup>th</sup> day of September, 1982.

ROBERT K. CORBIN  
Attorney General

  
Assistant Attorney General  
Transportation Division

Brief description of proposal and requested Board action: On completion of Interstate 10 (I-10) to 99th Avenue, the Arizona Department of Transportation (ADOT) will take over 99th Avenue between I-10 and SR 85 as a temporary continuation of I-10. Utilizing this roadway as temporary I-10 requires widening the road to four lanes, signalizing the railroad crossing and upgrading the intersection at SR 85 at a cost to Maricopa County of \$784,729.

It is recommended that the Board of Supervisors approve and execute an intergovernmental agreement with ADOT to share in the cost of improving 99th Avenue and approve a transfer of funds within the Capital Improvement Program budget from Project Reserve (R69998, WA #W783XX) of \$142,729. All five copies should be executed and returned for further processing. After approval by ADOT, the Clerk will be sent a copy for her files.  
Work Order No. 39700 WA #W783AG

Please return an executed copy to  
the Clerk of the Board of Supervisors.

MOTION: IT IS MOVED THAT THE MARICOPA COUNTY BOARD OF SUPERVISORS approve and execute an intergovernmental agreement with Arizona Department of Transportation for improvement of 99th Avenue between I-10 and SR 85 to serve as interim temporary I-10 and approve a transfer of funds from Project Reserve in the amount of \$142,729.

FINANCIAL: ☒ Budgeted ☐ Contingency ☒ Budget Amendment ☒ Transfer ☐ Grant or Other

\$ 142,729.00 0450 - C.I.P. / ROAD FUND [Signature] 10-29-82  
Total Cost Fund Financial Officer Date

PERSONNEL:

Personnel Director \_\_\_\_\_ Date \_\_\_\_\_

OFFICE OF MANAGEMENT ANALYSIS

Director \_\_\_\_\_ Date \_\_\_\_\_

LEGAL: Approved as to form and within the powers and authority granted under the laws of the State of Arizona to the Maricopa County Board of Supervisors.

[Signature] 10-25-82  
Deputy County Attorney Date

DEPARTMENT: Highway - 6400

Action Recommended By: [Signature] 10-20-82  
Date

APPROVED FOR AGENCY  
[Signature] 10-29-82  
Approving Official Date

BOARD OF SUPERVISORS

Action Taken: ☒ Approved ☐ Disapproved ☐ Continued to \_\_\_\_\_

Date: NOV 15 1982

Clerk of the Board: [Signature]